



**Billing Code: 4810-25-P**

**DEPARTMENT OF THE TREASURY**

**Office of the Secretary of the Treasury**

**31 CFR Parts 27 and 50**

**Inflation Adjustment of Civil Monetary Penalties**

**AGENCY:** Departmental Offices, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury (“Department” or “Treasury”) publishes this final rule to adjust its civil monetary penalties (“CMPs”) for inflation as mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (collectively referred to herein as “the Act”). This rule adjusts CMPs within the jurisdiction of two components of the Department to the maximum amount required by the Act.

**DATES:** The final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** For information regarding the Terrorism Risk Insurance Program’s CMPs, contact Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, at (202) 622-2922 (not a toll-free number), or Lindsey Baldwin, Senior Policy Analyst, Federal Insurance Office, at (202) 622-3220 (not a toll free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

For information regarding the Treasury-wide CMP, contact Richard Dodson, Senior Counsel, General Law, Ethics, and Regulation, 202-622-9949.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

In order to improve the effectiveness of CMPs and to maintain their deterrent effect, the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note (“the Inflation Adjustment Act”), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114-74) (“the 2015 Act”), requires Federal agencies to adjust each CMP provided by law within the jurisdiction of the agency. The 2015 Act requires agencies to adjust the level of CMPs with an initial “catch-up” adjustment through an interim final rulemaking and to make subsequent annual adjustments for inflation, without needing to provide notice and the opportunity for public comment required by 5 U.S.C. 553. The Department’s initial catch-up adjustment interim final rules were published on December 7, 2016 (Departmental Offices) (81 FR 88600), and for 31 CFR part 27, on February 11, 2019 (84 FR 3105). The Department’s 2018 annual adjustment was published on March 19, 2018 (83 FR 11876). The 2015 Act provides that any increase in a CMP shall apply to CMPs that are assessed after the date the increase takes effect, regardless of whether the underlying violation predated such increase.<sup>1</sup>

### **II. Method of Calculation**

The method of calculating CMP adjustments applied in this final rule is required by the 2015 Act. Under the 2015 Act and the Office of Management and Budget guidance required by

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<sup>1</sup> However, the increased CMPs apply only with respect to underlying violations occurring after the date of enactment of the 2015 Act, i.e., after November 2, 2015.

the 2015 Act, annual inflation adjustments subsequent to the initial catch-up adjustment are to be based on the percent change between the Consumer Price Index for all Urban Consumers (“CPI-U”) for the October preceding the date of the adjustment and the prior year’s October CPI-U. As set forth in Office of Management and Budget Memorandum M-19-04 of December 14, 2018, the adjustment multiplier for 2019 is 1.02522. In order to complete the 2019 annual adjustment, each current CMP is multiplied by the 2019 adjustment multiplier. Under the 2015 Act, any increase in CMP must be rounded to the nearest multiple of \$1.

## **Procedural Matters**

### *1. Administrative Procedure Act*

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701(b)) requires agencies, beginning in 2017, to make annual adjustments for inflation to CMPs, without needing to provide notice and the opportunity for public comment and a delayed effective date required by 5 U.S.C. 553. Additionally, the methodology used, effective 2017, for adjusting CMPs for inflation is provided by statute, with no discretion provided to agencies regarding the substance of the adjustments for inflation to CMPs. The Department is charged only with performing ministerial computations to determine the dollar amount of adjustments for inflation to CMPs. Accordingly, prior public notice, an opportunity for public comment, and a delayed effective date are not required for this rule.

### *2. Regulatory Flexibility Act*

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

### *3. Executive Order 12866*

This rule is not a significant regulatory action as defined in section 3.f of Executive Order 12866.

#### *4. Paperwork Reduction Act*

The provisions of the Paperwork Reduction Act of 1995, Pub. L. 104-13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements.

### **List of Subjects**

#### **31 CFR Part 27**

Administrative practice and procedure, Penalties.

#### **31 CFR Part 50**

Insurance, Terrorism.

### **Authority and Issuance**

For the reasons set forth in the preamble, parts 27 and 50 of title 31 of the Code of Federal Regulations are amended as follows:

#### **PART 27—CIVIL PENALTY ASSESSMENT FOR MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.**

1. The authority citation for part 27 continues to read as follows:

**Authority:** 31 U.S.C. 321, 333.

2. Amend § 27.3 by revising paragraph (c) to read as follows:

#### **§ 27.3 Assessment of civil penalties.**

\* \* \* \* \*

(c) *Civil penalty.* An assessing official may impose a civil penalty on any person who violates the provisions of paragraph (a) of this section. The amount of a civil monetary penalty shall not exceed \$7,975 for each and every use of any material in violation of paragraph (a), except that such penalty shall not exceed \$39,873 for each and every use if such use is in a broadcast or telecast.

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## **PART 50—TERRORISM RISK INSURANCE PROGRAM**

3. The authority citation for part 50 continues to read as follows:

**Authority:** 5 U.S.C. 301; 31 U.S.C. 321; Title I, Pub. L. 107-297, 116 Stat. 2322, as amended by Pub. L. 109-144, 119 Stat. 2660, Pub. L. 110-160, 121 Stat. 1839 and Pub. L. 114-1, 129 Stat. 3 (15 U.S.C. 6701 note); Pub. L. 114-74, 129 Stat. 601, Title VII (28 U.S.C. 2461 note).

4. Amend § 50.83 by revising paragraph (a) to read as follows:

**§ 50.83 Adjustment of civil monetary penalty amount.**

- (a) *Inflation adjustment.* Any penalty under the Act and the regulations in this part may not exceed the greater of \$1,394,837 and, in the case of any failure to pay, charge, collect or remit amounts in accordance with the Act or the regulations in this part such amount in dispute.

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David Dwyer,  
Executive Secretary.

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